

LAW OFFICES OF
JOSHUA L. DRATEL, P.C.
A PROFESSIONAL CORPORATION

29 BROADWAY
Suite 1412
NEW YORK, NEW YORK 10006

TELEPHONE (212) 732-0707
FACSIMILE (212) 571-3792
E-MAIL: JDratel@JoshuaDratel.com

JOSHUA L. DRATEL
—
LINDSAY A. LEWIS
WHITNEY G. SCHLIMBACH

STEVEN WRIGHT
Office Manager

December 14, 2018

BY ECF

The Honorable John G. Koeltl
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Democratic National Committee v. The Russian Federation (WikiLeaks)*
18 Civ. 3501 (JGK)

Dear Judge Koeltl:

This letter is in regard to the motion to dismiss filed last Friday on behalf of defendant WikiLeaks, which I represent in the above-entitled action. It has come to my attention that David McCraw, Deputy General Counsel for *The New York Times*, in his remarks at the July 2018 Ninth Circuit Judicial Conference quoted in WikiLeaks's Memo of Law (ECF Dkt #208) at 9, expressly said he was commenting only with respect to WikiLeaks's 2010 publication of U.S. Defense Department and State Department documents regarding Afghanistan and Iraq, and which WikiLeaks shared with *The New York Times* and others who published the materials. The article from which Mr. McCraw's quotes were drawn, *id.*, at n. 15, did not include that information.

This clarification is provided to ensure that the context of Mr. McCraw's statements is clear, and the Memo of Law did not intend otherwise. In that regard, WikiLeaks maintains the position that the factual allegations in the First Amended Complaint herein describe nothing more than WikiLeaks publishing materials, and that as a result liability imposed on WikiLeaks in this case is foreclosed by the First Amendment. If not, there would not be a basis for distinguishing WikiLeaks from other publications such as *The New York Times*, which would be in the same jeopardy for merely publishing the same materials and information that are the subject of this lawsuit.

LAW OFFICES OF
JOSHUA L. DRATEL, P.C.

The Honorable John G. Koeltl
United States District Judge
Southern District of New York
December 14, 2018
Page 2 of 2

I regret any confusion or misunderstanding the unknowing omission may have caused, and which this clarification is designed to eliminate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joshua L. Dratel", written in a cursive style.

Joshua L. Dratel

JLD/